

**NORTHWEST**news

ACLU attorney Kenneth Y. Choe spoke on behalf of the gay and lesbian couples challenging the ban. He said the 1998 Tanner decision ruled that discrimination against same-sex couples was unconstitutional in terms of benefits for state employees.

"The exclusion of same-sex couples from marriage also discriminates against individuals based on their gender," Choe added. "Whether an individual can marry his or her partner depends on whether he or she is male or female."

The state's attorney, Stephen K. Bushong, argued that there are different ways to achieve the benefits of marriage denied gay and lesbian couples and that the Legislature is the proper place to determine how and under what name access to those benefits might be achieved.

Clark, representing social conservative groups, said that the framers of the Oregon Constitution never envisioned same-sex marriage in 1857 and that their original intent should be honored. Marriage is for procreation, he asserted: "By definition, every heterosexual marriage—at least theoretically—has the biological capability of producing children." He urged the court not to engage in "a massive social experiment."

"Does that mean that everybody who gets married and after five years doesn't have a child, they are going to get their marriage license revoked?" joked plaintiff Dr. Stephen Knox during the hearing.

Under current state law and policies, Choe said later in his rebuttal, "all couples who bring children into their families are expressly afforded the same rights and benefits" regardless of whether they come through traditional procreation, artificial means or adoption.

What the plaintiffs seek is a logical extension of coverage of basic rights that have been extended to women and minorities since the Oregon Constitution was written. Choe said the separate-but-equal alternative that Bushong suggested would not work.

Multnomah County Attorney Agnes Sowle said the county was only carrying out its administrative functions as required by the Oregon Constitution in issuing marriage licenses to same-sex couples.

She lit into the state, charging: "It's obvious that the state is primarily interested in getting the county to stop issuing the marriage licenses.... The state asks, really, for no more than court-ordered discrimination.... They are really asking for an injunction...without proving all of the elements that are required in Oregon to prove before an injunction is entitled to be issued."

At a joint news conference after the hearing, Fidanque said: "What we heard from [the opponents] is that Oregon should turn back the clock to 1857 and that literally every right in history—which was granted to white men and refused to

women, to racial minorities, to ethnic minorities—should have to be fought for in the realm of majoritarian politics. We do not believe that is the meaning of the Oregon Bill of Rights. The whole purpose of the Bill of Rights is to place some fundamental freedom outside of the realm of how the majority may feel about that particular right in a given context at a given time."

Choe added, "What the Defense of Marriage Coalition has argued is that the judicial branch has no role in guaranteeing the rights of minorities in our society." But, he noted, the judiciary "sticks up for minorities when the majoritarian process tramples on their rights."

Dr. Eric Warshaw, Knox's spouse, said, "One of the important things that we teach our [three adopted] kids is that discrimination is wrong, no matter what form it comes in, and we as a family were discriminated against, and that's why we decided to stand up and be here."

Lead plaintiff Mary Li explained: "Our relationship is about the hope and faith and belief in our rights as a family. Our marriage was about that, and we hope that this case will ultimately affirm that hope and that faith."



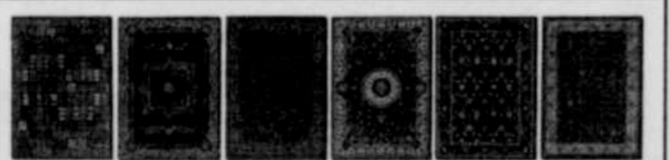
Plaintiff Dr. Eric Warshaw says he joined the lawsuit to teach his children that discrimination is wrong

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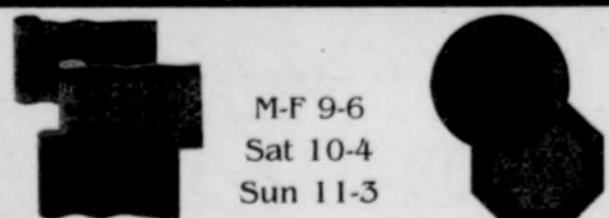
The National Organization for Women has resolved to only endorse candidates who support same-sex civil marriage. NOW vice president Terry O'Neil came to Portland to make the announcement alongside local politicians, elected officials and church leaders April 4.

"Civil unions do not provide the same benefits and rights as marriage—and anything less than the right to marriage relegates lesbian and gay relationships to second-class status," NOW said in a statement. "NOW supports the repeal of the Defense of Marriage Act and opposes an amendment to the U.S. Constitution banning same-sex marriage." □

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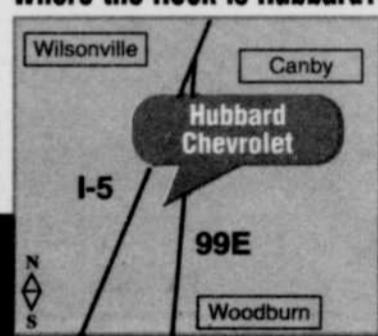
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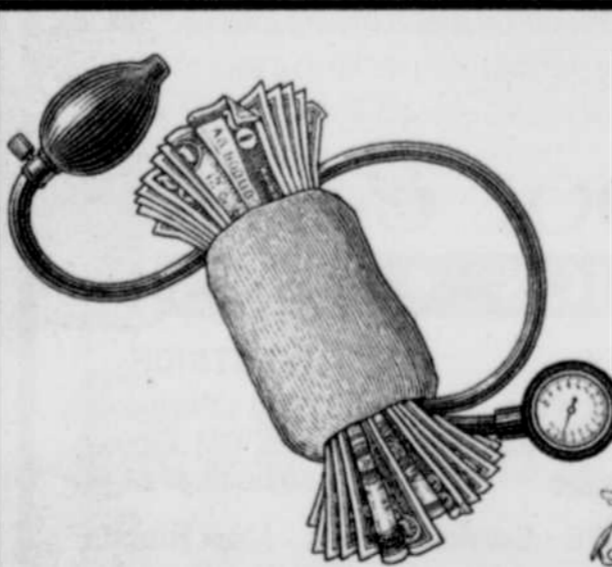


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